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10/086,388	02/28/2002	Mark Nelson Robins	10011708-1	1290

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EXAMINER	
TESLOVICH, TAMARA	
ART UNIT	**PAPER NUMBER**
2137	

DATE MAILED: 03/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/086,388	ROBINS ET AL.	
	Examiner	Art Unit	
	Tamara Teslovich	2137	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *December 8, 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-24* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-24* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

This action is in response to Applicant's Amendments and Arguments filed December 8, 2005.

Claims 1, 6, 7 and 14 are amended.

Claims 1-24 are herein considered.

Response to Arguments

Applicant's arguments filed December 8, 2005 have been fully considered but they are not persuasive.

Applicant's amendments to claim 6 in response to the Examiner's 35 U.S.C. 112 rejection is accepted and the rejection to this claim is withdrawn accordingly.

Applicant's amendments to claim 14 in response to the Examiner's 35 U.S.C. 101 rejections fail to define an embodiment of the invention in the manner as required by 35 U.S.C. 101 and are therefore maintained and discussed below.

Applicant's initial argument concerns Tolopka's failure to teach wherein the device used to provide the retina scan or other image capture is similarly used to capture the reference object to which a comparison is made. Relying primarily upon column 3 of Tolopka and finding support in the remaining specification and claims, the Examiner would like to respectfully disagree with the Applicant's contentions. Tolopka's image capture device relies upon the use of recognition, be it biometric, retina, fingerprint, anatomy, head, or other. In order for the device to authenticate a user it is necessary for their 'print' to be compared to that 'print' registered with the device initially.

Applicant's next set of arguments concern the Examiner's 35 USC 103 rejection of claims 1-24 in view Audebert and Tolopka.

Applicant's initial argument concerns Audebert's failure to teach the security timer of claim 1. The Applicant cites the paragraphs cited by the Examiner in the office action previous wherein Audebert discloses the use of time intervals of a relatively long duration, usually 10 minutes or more. The Applicant goes on to argue that there is no indication that such intervals are timed. The Examiner respectfully disagrees, as it is clear from the reference that time intervals of a specific duration, hence period of time, are to be utilized, making specific mention of 10 minutes or longer which serves to suggest that such intervals would in fact be timed and that such an interval would be communicated to the processor in order to perform tasks such as restricting access. The Applicant goes on to discuss the Examiner's reference to col.5 lines 38-54 of Tolopka where access keys are time limited for valid access and wherein time-out parameters make be set or revoked claiming that Tolopka fails to disclose referencing the timer from the activation of the property. The Examiner respectfully disagrees with this argument, referring back to the citations included within page 18 of the Applicant's response wherein the citation begins its discussion of timers by stating that such methods would be utilized to restrict access, access to property and activation thereof. There is no reason to assume that the user-specified time-out parameters would not depend on the activation of the property considering they already have the power to vary the number of persons and access thereof at the property.

Applicant's remarks concerning the patentability of claims 7, 14 and 18 rely upon the statements made above in relation claim 1, and are rejected by the Examiner for the same reasons. All claims dependant from claims 7, 14, and 18 remain rejected as well.

Therefore, based on the above arguments, the Examiner maintains the rejections as set forth in the previous office action and amended below in response to Applicant's amendments.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 14-17 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claimed invention as a whole must accomplish a practical application. A claim is limited to a practical application when it produces a concrete, tangible and useful result; i.e., the method recites a step or act of producing something that is concrete, tangible and useful. See AT &T, 172 F.3d at 1358, 50 USPQ2d at 1452. Claim 17 discloses 'logic configured to' time and compare but fails to produce a tangible result from that logic in any way.

Additionally, the Applicant's 'computer readable medium' when read in light of page 9 of the specification, includes a number of media which fail to fall within any of the four statutory class, those mediums including but not limited to 'propagation medium' and 'an electrical connection having one or more wires'.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 18 is rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 6,044,349 by Tolopka et al., hereinafter referred to as Tolopka.

As per claim 18, Tolopka discloses a method for providing security to property having an image capture device, the method comprising the steps of: capturing a first image of an object with the image capture device; generating an image key, the image key corresponding to the first image of the object; capturing a second image of the object with the image capture device; comparing the image key with the second image of the object; and enabling use of the property only if the image key corresponds to the second image of the object (see Tolopka col.3 lines 36-65).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 5,937,068 by Yves Audebert and further in view of US Patent No. 6,044,349 by Tolopka et al.

As per claim 1, Audebert discloses a system for preventing unauthorized use of property (second unit), comprising a security file corresponding to an object residing in memory of the electronic device (abstract); a processor configured to compare an image key with the security file corresponding to the object, and further configured to enable use of the electronic device only if the security file corresponds to the image key, the image key corresponding to the object (abstract; col.4 lines 60-67); and a security timer configured to time a period of time referenced from the activation of the property such that the processor compares the image key with the security file after the time period has elapsed (see Audebert col.3 lines 43-52).

Audebert fails to teach wherein the system includes an image capture system configured to capture an image of an object, and further configured to generate data corresponding to the image (security file) of the captured image.

Tolopka teaches the secure information retrieval method and apparatus of Audebert wherein the system includes an image capture system configured to capture an image of an object (biometric scan, retinal scan, finger print scan, anatomy recognition), and further configured to generate data corresponding to the image of the

captured image (see Tolopka col.3 lines 42-54). The card also contains an adjustable timer used to limit access times (see Tolopka col.5 lines 38-54).

It would have been obvious to a person of average skill in the area at the time of the invention to include within Audebert's smart card the information corresponding to captured images as described in Tolopka to provide a secondary means of authentication.

As per claim 2, Audebert discloses wherein the electronic device comprises at least one selected from a group consisting of a digital camera, a personal computer, a laptop computer, a personal digital assistant, an automobile, a boat, an airplane, and an enclosure (see Audebert col.12 lines 20-27; col.14 lines 37-42).

As per claim 3, Audebert discloses wherein the security timer is a hardware component coupled to the processor and configured to communicate a signal to the processor indicating that the time period has elapsed (see Audebert col.14 lines 14-36).

As per claim 4, Audebert discloses a unit of memory configured to store the security time as logic such that the processor executes the security timer logic to time the time period (see Audebert col.14 lines 14-36).

As per claim 5, Audebert discloses a timer adjuster configured to adjust the time period of time timed by the security timer (see Audebert col.3 line 30 thru col.4 line 7).

As per claim 6, Audebert discloses wherein the timer adjuster is at least one selected from a group consisting of at least one touch-sensitive button, at least one pushbutton, a touch pad display and a menu displayed on a display (see Audebert col.3 line 30 thru col.4 line 7; col.7 line 65 thru col.8 line 6).

Claim 7 is directed towards the method of the system of claim 1 and is rejected by similar rationale.

As per claim 8, Audebert discloses the step of disabling the electronic device when the image key does not correspond to the captured image of the object, wherein the step of disabling the property is performed at the conclusion of the time period (see Audebert col.8 lines 45-48).

Claim 9 is directed towards the method of the system of claim 2 and is rejected by similar rationale.

As per claim 10, Tolopka discloses generating the image key from a second captured image of the object; and saving the image key in a memory, the steps of generating and saving performed before the steps of receiving comparing and enabling (see Tolopka col.3 lines 38-54).

As per claim 11, Tolopka discloses communicating activation of the property to a security timer; and communicating an end of timing period to a processor such that the processor performs the steps of receiving, comparing and enabling (see Tolopka col.3 lines 52-54; col.5 lines 45-54).

As per claim 12, Tolopka discloses executing a security timer logic residing in a memory with a processor; and beginning the steps of receiving, comparing and enabling when the time period has elapsed (see Tolopka col.3 lines 52-54; col.5 lines 45-54).

Claim 13 is directed towards the method of the system of claim 5 and is rejected by similar rationale.

Claim 14 is directed towards the software utilized in the system of claim 1 and is rejected by similar rationale.

Claim 15 is directed towards the software utilized in the system of claim 8 and is rejected by similar rationale.

Claim 16 is directed towards the software utilized in the system of claim 4 and is rejected by similar rationale.

Claim 17 is directed towards the software utilized in the system of claim 5 and is rejected by similar rationale.

As per claim 19, Tolopka discloses the method of claim 18, but fails to disclose the step of disabling property when the image key does not correspond to the captured image of the object.

Audebert teaches the step of disabling property when the image key does not correspond to the captured image of the object (see Audebert col.8 lines 45-48).

It would have been obvious to a person of average skill in the area at the time of the invention to include within Tolopka's method of providing security the additional disabling feature of Audebert to provide increased security against unauthorized users.

As per claim 20, Audebert discloses wherein the electronic device comprises at least one selected from a group consisting of a digital camera, a personal computer, a laptop computer, a personal digital assistant, an automobile, a boat, an airplane, and an enclosure (see Audebert col.12 lines 20-27; col.14 lines 37-42).

As per claim 21, Audebert discloses the step of timing a time period such that the steps of comparing and enabling are performed at the conclusion of the time period (see Audebert col.3 lines 43-52).

As per claim 22, Tolopka discloses communicating activation of the property to a security timer; and communicating an end of timing period to a processor such that the processor performs the steps of receiving, comparing and enabling (see Tolopka col.3 lines 52-54; col.5 lines 45-54).

As per claim 23, Tolopka discloses executing a security timer logic residing in a memory with a processor; and beginning the steps of receiving, comparing and enabling when the time period has elapsed (see Tolopka col.3 lines 52-54; col.5 lines 45-54).

As per claim 24, Audebert discloses the step of adjusting the time period (col.3 line 30 thru col.4 line 7).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamara Teslovich whose telephone number is (571) 272-4241. The examiner can normally be reached on Mon-Fri 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571) 272-3865. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

T. Teslovich
March 2, 2006

EMMANUEL L. MOISE
SUPERVISORY PATENT EXAMINER